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August 6, 2006

Ms. Colleen Dale
Secretary and Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: Docket No. AX-2003-0404 – In the Matter of a Proposed Rule to Establish Procedure for Handling Confidential Information in Commission Proceedings

Dear Ms. Dale:

I represent Union Electric Company d/b/a AmerenUE, and submit these additional brief comments to the proposed rule, which is the subject of the above-referenced docket, which was published in the *Missouri Register* on July 3, 2006.¹

AmerenUE is supportive of the rule, as proposed, including the recently filed comments by the Commission's Staff, Laclede Gas Company, and AT&T Missouri. AmerenUE has serious concerns about some of the revisions proposed by the Office of the Public Counsel (OPC), however.

OPC first suggests (OPC proposed revision No. 1), in direct contravention of the Commission's recent ruling on the very same issue, that parties should be required to file as a public document any content within a consultant's report that might happen, in isolation, to be available in some way from some public source. On May 25, 2006, the Commission issued its Order Regarding Motion to Compel Further Disclosure of Integrated Resource Plan and Scheduling Conference in Case No. EO-2006-0240 (pertaining to AmerenUE's 2005 IRP filing). In rejecting an attempt by the Sierra Club and related intervenors to achieve the same result OPC attempts to achieve by its proposed revision No. 1 (ACORN, Mid-Missouri Peaceworks et al.), the Commission rejected the idea that utilities (or other parties for that matter) should be forced to pay for consultants to prepare reports and analysis, which may include researching and

¹ On May 2, 2003 and again on December 16, 2005, at Judge Woodruff's request, AmerenUE submitted comments regarding earlier versions of the proposed rules. AmerenUE was unaware, until very recently, that a formal Chapter 536 rulemaking had been initiated by publishing proposed rules in the *Missouri Register* because AmerenUE was never put on the service list in EFIS and did not receive the Commission's May 30, 2006 Notice Regarding Public Hearing. AmerenUE therefore submits this letter four days after the comment period established by the notice published in the *Missouri Register*, and respectfully requests the Commission's consideration of the same.

compiling some so-called “publicly available” information, and then simply turn the results of that research and those compilations over to the public and every other utility in the state. In rejecting OPC’s position, the Commission stated, “reports prepared by outside consultants represent the research, knowledge, and wisdom of those consultants.”

Consultants create a valuable product by using their expertise to both research and sort through huge volumes of data, some public and some not public, and to then determine what data is reliable and relevant to the particular problem they are addressing. Their ability to select the reliable and relevant information, to compile it in a useful way, and to provide their own related analysis, is central to the service they provide. No party should buy and pay for that expertise and then be forced to give it away to anyone with a computer and a web browser, as OPC suggests. Indeed, there is no need to do so, if one accepts OPC’s premise, because the data is available publicly in any event. The Commission has already recognized as much, has rejected OPC’s request, and should do so again.

The Company also objects to OPC’s proposed revision No. 3. It is in the Commission’s interest for the litigants in a Commission proceeding to submit proper discovery requests relating to each case separately in each case. This allows a party to whom requests are directed to better know and understand what the requesting party perceives to be an issue in the case and to provide up-to-date information contemporaneously with the time the request is made. Moreover, this promotes the ability of the parties to better define and in many cases resolve issues before they reach the hearing room. This creates no undue burden on any party. Staff and OPC of course know what DRs they may have asked in a prior case and can go through them and decide, in a later case, which of them they simply desire to ask again. By using word processing software, fashioning those prior DRs into new DRs is an easy and efficient process. The other parties to rate cases can then track the information sought, provide current information, and better understand and address issues to which the discovery may be directed in a given case. This also prevents undue and unfair surprise during the hearing process where Staff or OPC may go back to earlier information which no one knew was an issue and which has not been updated for changes occurring since the original response in the other case was made.

Thank you for bringing these additional comments to the Commission’s attention.

Sincerely,

/s/ James B. Lowery

James B. Lowery

Cc: Tom Byrne; Office of Public Counsel; Commission Staff, Laclede Gas Company; AT&T Missouri